THE HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No. 21661 of 1999

-

DATED: 12-08-2005

Between:

APSRTC, represented by its

Depot Manager (works),

Body Building Works, Milapur,

Rangareddy District. ….Petitioner

AND

K. Krishna Rao, Ex. CBM,

C/o. S.Siva Prasad, Advocate,

H.No.3-5-582, Opp. To Gurunanak

High School, Himayatnagar,

Hyderabad-29. …Respondent

THE HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No. 21661 of 1999

ORDER:

This writ petition is filed by the Depot Manager (Works), A.P.S.R.T.C., Body Building Works, Miyapur, Rangareddy District, being aggrieved by the Award dated 08-10-1998 passed in I.D.No.671 of 1993 by the Labour Court-III, Hyderabad.

The respondent is the workman. According to the petitioner, the respondent was removed from the services of the Corporation for the serious misconduct proved against him in a domestic enquiry, which was conducted as per the Rules and Regulations of the Corporation.

It is the case of the petitioner that One Ch. Nageshwar Rao E 29970, AE (M), BBW complained that on 8-5-1991 at about 11.30 hours, while he was discussing in the welding section Leading Hand, the respondent had approached him and argued as to why he was marked absent on the afternoon for some days. The said Ch. Nageshwar Rao replied to him that because he was not available in the Section, he marked the absence. On that, the respondent having become infuriated, has beaten the said Ch. Nageshwar Rao on his face and when he attempted to beat him with a pipe, the same was prevented by the Deputy Superintendent (Mech.), who was

present there. On the basis of the complaint filed by the said Ch. Nageswara Rao, the following charges were framed against the respondent.

1. For having absconded from duty during the period of afternoon un-authorizedly on 22-4-1991, 24-4-1991 to 27-4-1991, 30-4-1991, 2-5-1991 and 6-5-1991 which constitutes misconduct under Reg. No.28 (XXVII) of APSRTC Employees (Conduct) Regulations, 1963.

2. For having beaten and assaulted Sri Ch.Nageswara Rao, E.29970 A.E.(Mech.) BBW on 8-5-1991 at 11.30 hours, while on duty which constitutes misconduct under Reg. 28 (xi) of APSRTC Employees (Conduct) Regulation, 1963.

3. For having irregular attendance since 1989 till date, as furnished hereunder which constitutes misconduct under Reg. (XXVII) of APSRTC Employees (Conduct) Reg. 1963.

YEAR EL HPL (P) HPL (M) ABSENT LWP TOTAL

1989 15 ½ 22 24 1 ½ 51 114

1990 15 6 - 18 195 194

1991 4 ½ - 11 - 17 ½ 33

As the explanation submitted by the respondent was not satisfactory, the petitioner ordered to conduct an enquiry. After an enquiry, the respondent was removed from service. Aggrieved by the same, the respondent raised a dispute in I.D.No.671 of 1993 under Section 2A (2) of (A.P) Amendment Act 32 of 87) of I.D. Act, 1947 and after considering the rival contentions, an award was passed directing the petitioner to reinstate the respondent into service with continuity of service with all attendant benefits but without back wages.

It is the further grievance of the petitioner that the Labour Court ought not to have held that except charge No.2 the other charges are not proved and even otherwise, the punishment of removal from service is not disproportionate to that of the misconduct. The Labour Court has not properly appreciated the evidence on

record and came to erroneous conclusion that except charge No.2, the other charges were not proved. Therefore, the same is liable to be set aside.

A detailed counter-affidavit has been filed on behalf of the respondent denying the allegations made in the affidavit and also supporting the award passed by the Labour Court.

I have given my earnest consideration to the respective submissions made by the learned Counsel on either side and perused the Award passed by the Labour Court and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error in passing the Award in favour of the petitioner therein. In so far as charge No:2 is concerned, the Labour Court has rightly noticed that the complainant in question is the root cause and aggressor for the unfortunate incident and that if at all the respondent had any grievance against the complainant viz., Ch.Nageshwar Rao, he ought to have made a complaint to the Higher Authorities. Therefore, the respondent mis-behaved with his superior and beat him and the said act certainly amounts to misconduct. In so far as the charges-1 and 3 are concerned, the Labour Court found that the said charges were not proved. While holding that the removal from service is dis-proportionate to the gravity of charge i.e., misconduct, directed the petitioner/management to reinstate the respondent into service with continuity of service with all attendant benefits but without back-wages. The Labour Court while exercising its discretionary power under Section 11 (A) of the I.D. Act passed the said order.

In the given circumstances of this case where the respondent had put in 20 years of long service and no misconduct of this nature was earlier committed by him, I feel that denial of back-wages would be sufficient punishment.

Therefore, I am of the opinion that the Labour Court has not committed any error in passing such award and as such, the same does not call for any interference by this Court under Article 226 of the Constitution of India. Hence, the writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

12th August, 2005

bud